REMARKS

Claims 1-2, 4-8, and 11-29 were presented for examination. Claims 1-2, 11-12, and 22-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6, 542,967 to Major ("Major") in view of U.S. Pat. No. 6,708,213 to Bommaiah *et al.* ("Bommaiah") and further in view of U.S. Pat. No. 6,324,182 to Burns *et al.* ("Burns"). Also, the Examiner rejected claims 4, 5, 13-15, 25, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Major, Bommaiah, and Burns and further in view of U.S. Pat. No. 6,678,793 to Doyle ("Doyle"). Further, the Examiner rejected claims 8, 16-21, and 27-29 under 35 U.S.C. § 103(a) as being unpatentable over Major , Bommaiah and Burns and further in view of U.S. Pat. No. 6,233,618 to Shannon ("Shannon").

No claims have been added in the present amendment and response. Upon consideration of this Response, claims 1, 2, 4-8, 11-29 remain pending, of which claims 1, 11, and 22 are independent.

Rejection of claims 1- 2, 11, 12, and 22-24 under 35 U.S.C. § 103(a)

Claims 1-2, 11-12, and 22-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6, 542,967 to Major ("Major") in view of U.S. Pat. No. 6,708,213 to Bommaiah *et al.* ("Bommaiah") and further in view of U.S. Pat. No. 6,324,182 to Burns *et al.* ("Burns"). Applicants respectfully traverse this rejection.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art as modified or combined, must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Appellants' disclosure. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); *see also* MPEP §2142.

The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is

directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *See Ex parte Clapp*, 227 USPQ 972, 973 (BPAI 1985); *see also* MPEP §2142.

Summary of Major

Major, as previously stated, is concerned with caching static content such as webpages and files and not with caching of "streaming" content. This aspect of Major has been previously discussed with the Examiner. In the Office Action, the Examiner admits that Major does not teach re-streaming the first portion of the cached content to the request client machine as at least a second portion of the received streaming content is cached. The Examiner also admits that Major does not teach re-streaming, at a later time, from the local cache, at least one of the first portion and the second portion of the streaming content to a same or different requesting client machine in response to a subsequent content request.

Summary of Burns

Burns simply describes a version of "store and forward". Burns monitors usage and then decides what content to pre-populate on the edge servers of Burns.

Summary of Bommaiah

Bommaiah describes techniques for enhancing caching systems to better support streaming media over the Internet and other public network system. Bommaiah teaches that "helpers," inside the network, operate as caching and streaming agents. The helpers serve to implement several methods specifically designed to support streaming media, including proxy caching, client request aggregation which describes the use of memory and disk resources at the helpers, and data transfer rate control to reduce start-up latency. *See* Abstract. However, Applicant respectfully submits that Bommaiah does not teach re-streaming the first portion of the cached content to the requesting client machine as at least a second portion of the received streaming content is cached, that is, Bommaiah teaches merely that content can be cached, but does not discuss caching said content while it is being streamed to a client device.

Argument

Applicants respectfully submit that the cited references do not do not teach or suggest all the claim limitations. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Each of the independent claims recite, in one form or another, re-streaming the first portion of the cached content to the requesting client machine as at least a second portion of the received streaming content is cached. None of the cited references teach or suggest this limitation. Major is concerned only with static content. Burns teaches only a "pre-fetching" technique, which is the antithesis of streaming. Similarly, Bommaiah does not teach or suggest "re-streaming" the first portion of the cached content to the requesting client machine as a second portion is received.

Accordingly, Applicant respectfully submits that any hypothetical combination of Major, Burns, and Bommaiah does not teach or suggest each limitation of independent claims 1, 11, and 22. Therefore, Applicant respectfully request the Examiner reconsider and withdraw the rejections of claims 1-2, 11-12, and 22-24 under 35 U.S.C. § 103(a).

Rejection of claims 4, 5, 13-15, 25, and 26 under 35 U.S.C. § 103(a)

The Examiner rejected claims 4, 5, 13-15, 25, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Major in view of Burns, Bommaiah and further in view of Doyle. Applicants traverse this rejection because Doyle is concerned merely with execution a JAVA applet that acts on a remote data corpus and does not teach or suggest "re-streaming" the first portion of the cached content to the requesting client machine as a second portion is received. Accordingly, Applicant respectfully submits that any hypothetical combination of Major, Burns, Bommaiah and Doyle fail to teach or suggest the limitations of those claims. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 4, 5, 13-15, 25, and 26 under 35 U.S.C. § 103(a).

Rejection of claims 8, 16-21, and 27-29 under 35 U.S.C. § 103(a)

The Examiner rejected claims 8, 16-21, and 27-29 under 35 U.S.C. § 103(a) as being unpatentable over Major, Burns, Bommaiah and further in view of U.S. Pat. No. 6,233,618 to

Shannon ("Shannon"). Applicants respectfully traverse this rejection because Shannon also does not teach or suggest the claimed limitations. As such, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 8, 16-21, and 27-29 under 35 U.S.C. § 103(a).

CONCLUSION

In view of the above remarks, Applicants believes the pending application is in condition for allowance.

Please charge any additional necessary fees or credit any overpayments to Deposit Account No. 03-1721.

Respectfully submitted,

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